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Office of the Inspector General

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June 20, 2011

Mr. Laurence Aiello
4506 Deerfield Circle
Peabody, MA 01960

Dear Mr. Aiello,

I am writing, pursuant to 945 CMR 1.09(3)(c), to notify you of matters that may be appropriate for administrative action by the board of the Merrimack Education Center, Inc. (MEC).

The Office of the Inspector General (OIG) has been reviewing matters regarding MEC and its related organization, the Merrimack Special Education Collaborative (MSEC). As you know, MSEC is a government agency. MEC, a non-profit organization, has as its primary exempt purpose the "support of public school systems."

In the course of my office's review, we have discovered improper actions by John B. Barranco, who has been MEC's executive director since 1993, that call into question his conformity with the non-profit's mission. The improper actions include the following:

- manipulating the two organizations' payroll records to inflate his pension.
- arranging extravagant executive bonuses and salaries for himself and a handful of top staff, including the woman whose home he shared for nearly a decade.
- using the non-profit's credit card for more than \$50,000 in charges that appear to be personal expenses.
- employing the same construction firm simultaneously for MEC projects and for extensive work on the home where he resided.

I am exercising my authority under 945 CMR 1.09(3)(c) to forward the information below to the MEC board so that the board can determine if action is warranted.

Background

The Merrimack Education Center Inc., or MEC, incorporated under state law in 1977 and was designated a tax-exempt 501(c)(3) non-profit by the IRS in 1978. Around the same time, MEC officials established Merrimack Special Education Collaborative, as a public entity sanctioned and governed by M.G.L. c.40 §4E, the law governing educational collaboratives. An educational collaborative is a mechanism for a group of school districts to work together to provide services that are difficult and/or expensive for a single district to deliver on its own.

MSEC, also referred to as the Collaborative, is hired by school districts to educate students with severe physical and mental disabilities as well as those with behavioral and medical challenges. MEC provides transportation to special needs students, continuing education classes to teachers and administrators, and technology services to school districts and other public and private entities.

While the two organizations have had separate legal identities since the 1970s, they were operated as a single organization for almost their entire history. Mr. Barranco has been the executive director of MEC since 1993. He simultaneously served as executive director of MSEC from 1993 to August 2005.

In the last two years, Mr. Barranco, has made efforts to create some functional separation between the two organizations. This effort appears to have been prompted by questions regarding his pension.

Mr. Barranco's pension

Mr. Barranco has been receiving a public pension from the Massachusetts Teachers' Retirement System since 2005 when he retired from MSEC. As of last year, his pension was \$157,000. Since his 2005 retirement from MSEC, he has continued to receive compensation from MEC. In 2009, he received \$513,373 in salary and bonus payments, plus an additional \$20,470 annuity.

His pension amount is based on crediting him for 11.75 years of full-time service as executive director of MSEC between 1994 and 2005. We believe that Mr. Barranco should not be credited with full-time service to MSEC during those years when he was simultaneously serving as executive director of MEC. A review of MEC and MSEC minutes as well as interviews with employees indicates that Mr. Barranco spent a substantial amount of time on MEC affairs and delegated much of the management of MSEC to Mary Clisbee. Ms. Clisbee and Mr. Barranco had a "personal relationship" from 1998 to 2007, according to court filings in Essex County.

Just as there are ample grounds to question the legitimacy of his full-time status at MSEC from 1994 to 2005, there is reason to doubt the authenticity of his retirement from MSEC. Following his Aug. 31, 2005 retirement, Mr. Barranco's work circumstances do not appear to have changed substantially. He continued to occupy the same office at

101 Mill Road, Chelmsford. Until recently, a woman on MSEC's payroll continued to act as his administrative assistant. Ms. Clisbee continued to be in charge of MSEC's day-to-day operations, just as she had been prior to Aug. 31, 2005.

When Ms. Clisbee ended their personal relationship and was forced to leave MSEC in 2007, Mr. Barranco reasserted his control over MSEC, despite the fact that he had retired from the public entity two years earlier. Initially, he installed a MEC deputy, longtime board member and former North Middlesex Regional School Superintendent James McCormick, to supervise MSEC's two top managers. Then, on Nov. 8, 2007, he arranged for the MEC and MSEC boards to ratify an amendment to their contract to include this statement: "MSEC shall be subject to the general management oversight of the MEC Executive Director." That amended contract was in force until October 2009.

Officials at the Massachusetts Teachers' Retirement System (MTRS) have been investigating Mr. Barranco's pension since 2009 and have recently taken action to modify it. Mr. Barranco is challenging their actions at the Division of Administrative Law Appeals (DALA). In April, I wrote to the MTRS detailing my concerns about Mr. Barranco's employment history and pension claims. A copy of my letter is enclosed. I urge the MEC board to cooperate with MTRS as they prepare for Mr. Barranco's DALA hearing.

I also wanted to bring Mr. Barranco's pension to your attention as an illustration of how Mr. Barranco and others have used the blurred boundaries between the government entity, MSEC, and the private non-profit, MEC, for personal enrichment.

As I mentioned above, the job of Mr. Barranco's longtime administrative assistant, Clarice Jeffers, was essentially unchanged when Mr. Barranco retired, yet she stayed on the public entity's payroll for several more years, accruing years of service towards her public pension. One former employee said that any MEC staffer who had already accrued time in a Massachusetts public pension plan was given the option of going on to the MSEC payroll in order to enhance his future pension.

Exorbitant Salaries and Bonuses

Under Mr. Barranco, MEC has a history of paying high salaries and bonuses to a handful of top officials at both MEC and the Collaborative. Mr. Barranco, who introduced the bonus program in the mid-1990s, received well over \$1 million in bonus payments between 2003 and 2009, according to MEC records.

In 2003, Mr. Barranco was paid \$266,986 through the MSEC payroll and got a \$90,323 bonus from MEC. The following year, he was paid \$323,719 by MSEC and received a \$96,712 bonus from MEC. In 2005, he received \$202,691 from MSEC and another \$166,514 in compensation from MEC. In 2006, the first full year of his retirement from MSEC, he received \$419,141 in salary and bonus payments from MEC. The following year, his total compensation, including a bonus of more than \$180,000 and an annuity of \$20,383, was \$348,896. In 2008, MEC paid Mr. Barranco a total of \$457,809,

including a bonus of just under \$190,000. In 2009, Mr. Barranco's total compensation, including a bonus of more than \$240,000, was \$533,842.

Until ending her personal relationship with Mr. Barranco in 2007, Ms. Clisbee was the second-highest paid person at the two organizations for several years. Ms. Clisbee started working for MSEC in 1997, according to a sworn affidavit she filed in Essex Superior Court in June 2007. Mr. Barranco and Ms. Clisbee began a personal relationship in 1998 and soon began living together at her home, according to the same affidavit. In September 2000, Mr. Barranco promoted Clisbee, then MEC's Director of Alternative Programs, to a newly created post, Senior Associate Director of Special Education. The new post came with a 21 percent raise that brought her salary to \$100,000.

In 2003, Ms. Clisbee received a \$63,000 bonus from MEC on top of her \$155,489 MSEC salary. The next year, MSEC paid her total compensation of more than \$194,000 and she received a MEC bonus of \$70,922. In 2005, Ms. Clisbee received more than \$234,000 from MEC and MSEC combined. In 2006, MEC paid her a bonus of \$139,000, on top of her \$164,093 MSEC salary.

Ms. Clisbee's successors, co-executive directors John Fletcher and Donna Goodell, each received bonus payments from MEC in 2007 of \$60,000 and in 2008 of about \$76,000.

Mr. Barranco also has hired several former board members and appointed them to well-paying positions entitling them to bonus payments as well. For example, Mr. McCormick left the MEC board and joined MEC's staff in July 2006 earning \$110,000 a year. He received bonuses of \$70,000, \$83,511, and \$85,529 the following three years in addition to his salary. Former Billerica Public Schools Superintendent Robert Calabrese, another longtime board member, became a part-time MEC employee in September 2006 making \$68,500 and received bonuses of about \$30,000 a year. When board member David Hawkins retired as Tyngsboro's superintendent in 2008, Mr. Barranco put him on the MEC staff. In 2009, Mr. Hawkins earned \$150,000.

Mr. Barranco's cousin, Frederick Hembrough, has been on the MEC board since at least 2003. While the board position is unpaid, Mr. Hembrough has worked as a consultant for MEC at a rate of \$100 per hour or more, earning between \$49,000 and \$64,250 annually between 2005 and 2009. From 2007 to 2009, MEC charged 55 to 60 percent of Mr. Hembrough's fee to MSEC; however, Ms. Goodell told my staff that she did not know of any work Mr. Hembrough did for the public entity.

Richard W. McDonough

In the fall of 2003, Mr. Barranco put Richard W. McDonough on the MSEC payroll as the organization's \$80,000 per year director of public affairs and government relations. Mr. McDonough retired from MSEC in December 2008 and is currently receiving a state pension of \$31,049 a year. This amount is based on statements in his retirement

application that he has 17 years of creditable service as a public employee with an average salary of \$96,115 during his three highest earning years of service. Those three years were 2006, 2007, and 2008, when Mr. McDonough was on the payroll of MSEC.

As you may know, Mr. McDonough has been a registered lobbyist in Massachusetts since the 1980s. In 2001, Mr. McDonough registered with the Secretary of State's office as a lobbyist for Merrimack Education Center Inc. and he continued to list Merrimack Education Center Inc. as a client through 2008. From 2001 to the fall of 2003, Merrimack Education Center Inc. periodically paid Mr. McDonough a fee, usually monthly, as its lobbyist on Beacon Hill.

In the fall of 2003, Mr. McDonough's name began appearing on MSEC's bi-weekly payroll and he stayed on the payroll until Dec. 31, 2008, ostensibly as the full-time director of public affairs and government relations for MSEC. Throughout that period, Mr. McDonough continued to operate his lobbying firm, McDonough Associates, representing a sizable roster of clients.

Mr. McDonough's pension benefits are based in part on crediting him for full-time employment during the five years and two months he was on the MSEC payroll from 2003 to 2008. However, he was not a full-time employee of MSEC. Other than his bi-weekly paychecks, there is virtually no trace of Mr. McDonough working for MSEC. My office formally requested any work product produced by Mr. McDonough during the years he was paid as MSEC's ostensible full-time director of public affairs and government relations. MSEC representatives reported no work product could be found. Mr. McDonough had no office space at MSEC nor did he have a telephone, according to the current co-executive directors. It was literally a no-show job.

My staff interviewed the two people who have been co-executive directors of MSEC since September 2007. They stated that they were unaware that Mr. McDonough was on the organization's payroll until my office requested all of the agency's records related to Mr. McDonough. Similarly, former employees and board members interviewed by my staff had no idea Mr. McDonough was on MSEC's payroll. Those that could recall ever seeing Mr. McDonough noted that it was a rare occurrence, typically at a social event and they assumed he was a guest of his friend, Mr. Barranco.

It appears that Mr. Barranco and Mr. McDonough made these arrangements so that Mr. McDonough could take advantage of certain public employee benefits and enhance his pension. This information is being communicated to the State Retirement Board so that it can review whether to modify the amount of Mr. McDonough's pension. However, I wanted to bring it to your attention as well because it is another instance in which Mr. Barranco's conduct has been contrary to the interests of MEC and MSEC.

(As an aside, MEC's Articles of Organization state that it is prohibited from attempting to influence legislation.)

Emerald Construction

Emerald Construction, a general contracting firm based in Carlisle, has done almost all of MEC's construction work since Mr. Barranco began running MEC in 1993, amounting to more than \$2.5 million. In 2002, Emerald Construction's owner, William H. Sullivan Jr., purchased a commercial building at 2 Republic Rd. in Billerica, which was then leased to MEC to house its technology operations. Records show MEC paid Sullivan's firms more than \$650,000 in 2002.

The same year, Emerald Construction renovated and built an addition onto Ms. Clisbee's home in Groveland, which was also Mr. Barranco's residence. (The line for Builder's Name on the town building permit has been whited out and overwritten; however, it appears the permit originally named Emerald Construction as the builder.) In an affidavit filed in response to a suit Mr. Barranco filed against Ms. Clisbee shortly after their break-up, Ms. Clisbee stated, "John insisted that the work be performed by his friend, Chip Sullivan, who was also the contractor for numerous construction projects for MEC at or about the same time that he worked on my home. I believe that there was no written contract or estimate ever provided by Sullivan or his company, Emerald Construction. I am unaware as to what if anything John paid him."

In 2003, MEC's auditors noted that during 2002 Emerald Construction undertook a large renovation project for which there was no contract. "Emerald's invoices were paid although they lacked copies of all of the underlying materials invoices that...should be provided, under a 'time and materials' billing arrangement," the auditors wrote. They described this as a "reportable condition" and "material weakness."

Using the same contractor simultaneously for personal projects and the non-profit's business, especially when there are no written contracts to rely on, raises questions about conflicts of interest. Mr. Barranco, through his attorney, Elissa Flynn-Poppey, refused my staff's request for an interview. Ms. Flynn-Poppey stated she also represents MEC's board members and employees, who also refused to be interviewed. Because of this lack of cooperation, it is unclear if Mr. Barranco disclosed to you or other MEC board members the fact that he was using Emerald Construction to renovate Ms. Clisbee's home.

I recommend that you sever MEC's ties with Emerald Construction.

Credit Card Misuse

In the course of reviewing MEC and MSEC, we have obtained information indicating Mr. Barranco used the MEC credit card to purchase more than \$50,000 in goods and services that appear to be personal in nature or have no apparent relationship to the activities and mission of the non-profit.

MEC has a corporate American Express charge card account issued in Mr. Barranco's name. My staff has examined MEC's monthly American Express statements as well as

various bank statements and transaction records from numerous retailers and enterprises. These documents indicate there are many charges made to this credit card that appear to be for personal use, including:

- On August 4, 2005, \$3,056 in lumber, plywood and building materials was purchased with the card at Middleton Building Supply's Dover store in the name of John B. Barranco. Store records show the materials were delivered to Mr. Barranco's vacation home in Alton Bay, NH. Town of Alton building department records show that six weeks earlier, Mr. Barranco had received a permit to build a garage on his property.
- On March 14, 2007, the card was used to purchase a pair of black patent leather loafers and a second pair of shoes for a total of \$350 from E. T. Wright. On Sept. 15, 2008, a \$160 pair of penny loafers from E. T. Wright was charged to the card. On Feb. 5, 2009, a \$215 pair of shoes from E. T. Wright was charged to the card. All purchases were shipped to Mr. Barranco at MEC's Chelmsford address.
- On March 26, 2005, the card was charged \$2,051 to reserve three room packages at the Breckinridge Inn in Louisville, Kentucky for that year's Kentucky Derby, held the first week in May. Hotel records show Mr. Barranco and two MEC board members, Richard Moser and Mr. Calabrese, stayed at the Breckinridge Inn. Text from the hotel's computer printout indicates the rooms were part of a reserved block associated with Cognos, a software firm. Several years earlier, MEC had purchased a \$250,000 software license from Cognos. Mr. McDonough, a lobbyist for both Cognos and MEC, and Joseph Lally, a salesman for Cognos, attended the 2005 Kentucky Derby. A year earlier, the card was charged \$966.82 for dinner at Ruth's Chris Steak House in Louisville during Derby weekend. It's unclear who paid for Mr. Barranco's travel and lodging at the 2004 Kentucky Derby. There are no charges for airfare or hotel rooms on the credit card. In an interview, Mr. Lally said Cognos paid for most of the expenses associated with Mr. Barranco's trips to the Kentucky Derby. During these years, Mr. Barranco was a public employee, on the payroll of MSEC.
- Between Feb. 2, 2005 and March 16, 2009, eight charges totaling \$1,131 were made for purchases at Thompson Cigar for items such as cigars, a lighter, poker chips and a poker table top. One of the orders was shipped to Mr. Barranco's home in Bradenton, Florida.
- On 10 different occasions between Dec. 13, 2005 and Oct. 22, 2009, the card was used to purchase a total of 32 men's clothing items from the Blair catalog company, totaling \$876.66. Mr. Barranco provided MEC reimbursement only for the purchases in March 2009, according to records reviewed by my staff.
- On Nov. 18, 2005, a \$441 mahogany console table was purchased from Pottery Barn and shipped to Mr. Barranco's daughter's home, with a note stating, "Merry Christmas, Love, Dad."
- On May 6, 2006, a \$700 robotic swimming pool cleaner called the Aquabot Mark V was purchased from PM Internet Superstore, a pool supply company in Nesconset, NY. The device was bought for use at Ms. Clisbee's home, where Mr. Barranco resided for several years until 2007.

- On March 7, 2006, Mr. Barranco purchased 10 chair cushions from Home Decorators Collection for \$689 and had them shipped to his Bradenton, Florida home address. Later that year, he purchased three matching rugs from the same merchant for \$307. They were shipped to the MEC main office. On Feb. 5, 2009, Barranco used the credit card to buy four steamer cushions from Home Decorators for \$312 and had them shipped to his Florida home. Records reviewed by my staff indicate Mr. Barranco reimbursed MEC for the most recently purchased cushions. My staff did not find records showing reimbursements for the earlier purchases.

In addition, American Express records show more than \$15,800 in gasoline station purchases between mid-2003 and mid-2010, many at locations close to Mr. Barranco's vacation homes in New Hampshire and Florida. Over the same period, Mr. Barranco charged more than \$20,000 in purchases at restaurants (separate from the charges associated with the board meetings and conferences described below).

My staff requested records showing reimbursements by Mr. Barranco for personal use of the credit card. Attorney Flynn-Poppey refused to turn over records of reimbursements. She also refused to provide records of MEC's policies regarding personal use of credit cards.

Despite Mr. Barranco's lack of cooperation, my staff obtained records indicating that Mr. Barranco has made some reimbursements to MEC in recent years. In September 2008, Mr. Barranco charged more than \$8,700 at a Lowe's store near his New Hampshire vacation home for kitchen cabinetry and a dishwasher. Within a few days, he wrote a check to MEC to cover these purchases. Prior to this time, Mr. Barranco rarely reimbursed MEC for personal purchases. However, beginning in late 2008, records indicate he wrote checks to MEC regularly, although it is not clear what charges Mr. Barranco was reimbursing.

My staff also obtained MEC's "Business Office Procedures & Accounting Procedures Manual" that was in force at least through June 2009. The manual states, "The credit card is to be used for business related purchases only." Also, improper use of credit cards was cited as a possible fraud risk by MEC's auditors, Toscano & Ardito. In the firm's 2006 work papers, personal purchases on MEC and MSEC credit cards was described as a "big concern."

In addition to the purchases cited above, MEC has also spent significant amounts on hotel, food, entertainment and travel for board meetings and conferences in Boston, on Cape Cod and in Florida, using the credit card.

For at least the last seven years, MEC held its annual meeting at the Boston Harbor Hotel on Rowes Wharf, paying for rooms, meals, receptions, concerts and cruises for between 40 and 50 attendees using the American Express card. Attendees are mainly board members, senior staff members and their spouses. In total, MEC spent \$326,268

in food and lodging for the annual meeting during this seven-year period. Detailed records exist of expenses for the most recent years, showing the following:

- On Friday June 20, 2008, MEC paid for dinner for 48 people at \$109 each, plus 24 bottles of wine, 13 bottles of champagne, 63 mixed drinks, 187 glasses of wine, and 24 beers. The following night, MEC paid for dinner for 48 people at \$88 per plate, plus 24 bottles of wine, 10 bottles of champagne, 154 glasses of wine and 43 beers. The total cost of alcoholic beverages for the two nights was \$7,387. With room costs at close to \$500 per night and a \$3,214 harbor cruise, the overall cost of the annual meeting was \$56,990. MEC records show the board met for a total of 75 minutes during that weekend. The agenda provided by MEC to the hotel lists one two-hour meeting on Saturday morning.
- The 2009 annual meeting included a \$109 per plate dinner for 45 on Friday, June 26, plus 26 bottles of wine, 68 mixed drinks, 49 glasses of wine and seven beers. The next night, MEC paid for a dinner cruise aboard the Spirit of Boston. The cost of the weekend totaled more than \$45,600. The agenda and itinerary MEC provided to the hotel has four hours blocked out for meetings. MEC board minutes indicate the board met for two-and-a-half hours during the weekend.
- The 2010 annual meeting included dinner for 42 at a cost of \$120 per plate the first night and dinner for 36 at a cost of \$105 per plate the following night. MEC paid for 30 bottles of wine, 76 glasses of champagne, and 49 glasses of wine during the two evenings.

MEC's board also held meetings every March in Bradenton, Florida. Between 2006 and 2010, more than \$44,500 was charged to the American Express card for hotel rooms, catering and airfare for these Florida board meetings.

- 2006 total = \$6,562 (\$3,777 for hotel rooms, \$1,785 for airfare and \$1000 for food and beverages).
- 2007 total = \$9,192 (\$4,998 for hotel rooms and \$4,194 for catering).
- 2008 total = \$10,849 (including \$6,294 for hotels and \$4,107 for catering).
- 2009 total = \$9,985 (\$6,162 for hotel rooms and \$3,823 for catering).
- 2010 total = \$7,925 (\$4,818 for hotel rooms and \$3,107 for catering). One of the hotel rooms was occupied by Richard McDonough, according to hotel records. McDonough had ceased being MEC's lobbyist more than a year before this board meeting.

MEC's American Express card was used every July between 2004 and 2009 to pay for certain MEC and MSEC personnel to attend the Massachusetts Association of School Superintendents' conferences on Cape Cod, at an annual cost of between \$12,000 and \$18,000.

A significant portion of the cost was hosting open bar receptions for conference attendees at the Sea Crest resort. At the 2007, 2008 and 2008 conferences, MEC's card was charged \$4,004.86, \$3,667.13 and \$3,489.39 – a total of \$11,161.63 – for open bar receptions. Bills identifying events as "open bar" are not available for prior

years but MEC's folio shows similar charges, such as "reception-bev" for \$3,877 in 2004. It appears MEC spent more than \$20,000 hosting open bar receptions between 2004 and 2009 at the superintendents' organization conferences on Cape Cod.

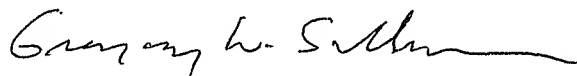
The sizable charges cited above generated credits to the American Express cardholder, called "Reward Points." Records show that the account's American Express "Reward Points" were redeemed periodically between 2003 and 2010. The points were always redeemed for Home Depot gift cards, totaling \$6,875. Because Mr. Barranco and other MEC officials refused interview requests, we were not able to ask them who used the gift cards and for what purpose.

As is evident from MEC's tax returns filed with the Massachusetts Attorney General's Non-Profit Organizations and Public Charities Division, substantially all of MEC's income is derived from public sources. MEC lists three major "program areas" – professional development, student transportation and technology services – making up its income-producing activities. These funds amounted to about \$11.6 million in FY 2010 and came primarily from local school districts. MEC also collected almost \$4.4 million last year from MSEC in fees for administrative services.

In its Articles of Organization, MEC describes its purposes generally as providing improved educational programs, methods and materials to school districts, educational institutions and human service organizations. On its federal tax forms, MEC lists its primary exempt purpose as "support of public school systems." MEC, under Mr. Barranco's direction, has strayed from that mission.

As the facts provided in this letter show, a thorough review by the MEC Board of Directors of Mr. Barranco's conduct is warranted. Please feel free to contact this office if there is any additional information that we can provide.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: Attorney General's Non-Profit Organizations and Public Charities Division